

Message Text

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ORIGIN EPA-02

INFO OCT-01 EUR-12 ISO-00 SIG-03 CTME-00 AID-05 CEQ-01
CIAE-00 SOE-02 COME-00 DODE-00 EB-08 INR-10 IO-13
L-03 NSF-01 NSC-05 NSAE-00 PM-05 ICA-11 OES-09
SS-15 SP-02 DOE-15 INT-05 HEW-04 HA-05 TRSE-00
/137 R

DRAFTED BY EPA/A106:P FULLER, B BILES:RW/CFS
APPROVED BY EUR/RPE: R M BEAUDRY
EPA/TS788: M BRACKEN
EPA/A106: J WOOD
EPA/A106: A B POPKIN
OES/ENP/EN: J BLANCHARD
EUR/RPE: W H DAMERON
EB/OT/STA: T OHERRON
COMMERCE: JANE LEWIS

-----009239 090954Z /21

R 082217Z AUG 78
FM SECSTATE WASHDC
TO AMEMBASSY BRUSSELS
INFO AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY COPENHAGEN
AMEMBASSY DUBLIN
AMEMBASSY LUXEMBOURG
AMEMBASSY PARIS
AMEMBASSY THE HAGUE

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PARIS ALSO FOR USOECD, BRUSSELS ALSO FOR USEEC

E.O. 11652: N/A

TAGS: EEC, SENV, ETRD
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SUBJECT: TOXIC SUBSTANCES

REF: BRUSSELS 14522

1. COMMENTS ON POINTS RAISED BY MEYNELL WITH DCM (REFTEL)
ARE GIVEN BELOW. MISSION REQUESTED TO CONVEY THEM TO

COMMISSION IN WRITING IN MANNER IT JUDGES MOST APPROPRIATE, AND AT SAME TIME TO REITERATE THAT DEPARTMENTS OF STATE AND COMMERCE AND EPA ARE ALSO CONCERNED ABOUT POSSIBLE TRADE CONSEQUENCES OF TOXIC SUBSTANCES REGULATIONS IN BOTH THE U.S. AND THE COMMUNITY.

2. (A) CHEMICALS CONTAINED IN IMPORTED ARTICLES

IT IS NOT ACCURATE TO SAY THAT U.S. MANUFACTURERS OF SIMILAR PRODUCTS WOULD HAVE A MORE READY OPPORTUNITY THAN FOREIGN COMPETITORS TO GET THEIR PRODUCTS ON THE U.S. INVENTORY. U.S. MANUFACTURERS ARE REQUIRED TO REPORT CHEMICAL SUBSTANCES FOR THE INVENTORY, BUT ARE NOT ALLOWED TO REPORT PRODUCTS. FOREIGN MANUFACTURERS AS A CLASS ARE NOT REQUIRED TO REPORT. IMPORTERS OF CHEMICAL SUBSTANCES ARE REQUIRED TO REPORT SUBSTANCES AND SUBSTANCES CONTAINED IN MIXTURES. THE BASIC LOOPHOLE THAT WE IDENTIFIED

A YEAR AGO STILL EXISTS. THAT IS, PERSONS MAY IMPORT NEW SUBSTANCES IN ARTICLES WITHOUT REPORTING THEM. AT THIS TIME WE ARE NOT INTENDING TO CHANGE THE POLICY ADOPTED PREVIOUSLY. THAT IS, ALTHOUGH WE HAVE THE AUTHORITY TO REQUIRE NOTICES FOR SUBSTANCES CONTAINED IN ARTICLES UNDER SECTION 5 OF TSCA, AT THIS TIME WE DO NOT INTEND TO EXERCISE THAT AUTHORITY BECAUSE OF THE APPARENT DIFFICULTY ON THE PART OF PRODUCT MANUFACTURERS OF OBTAINING LIMITED OFFICIAL USE

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ING DATA ON CHEMICAL COMPONENTS. HOWEVER, SOME RESTRICTIONS MAY EVENTUALLY PROVE NECESSARY FOR SUBSTANCES LIKELY TO HAVE WIDE EXPOSURE AND WHICH CONTAIN SUBSTANCES THAT ARE REASONABLY IDENTIFIABLE.

(B) TESTING REQUIREMENTS

THE U.S. IS NOT APPLYING "MORE ONEROUS TESTING REQUIREMENTS" ON IMPORTERS THAN ON DOMESTIC MANUFACTURERS. IN FACT, WE ARE NOT IMPOSING MANDATORY REQUIREMENTS ON EITHER OF THESE GROUPS. RATHER, WE ARE ASKING EACH SUBMITTER OF A PREMANUFACTURING NOTICE, WHETHER A DOMESTIC MANUFACTURER OR IMPORTER, TO IDENTIFY THOSE EXPOSURE LIMITS WHICH ARE APPROPRIATE FOR HIS CHEMICAL AND TO JUSTIFY HIS SELECTION OF THOSE LIMITS.

(C) ACCEPTANCE OF EXISTING TEST DATA

IN MOST INSTANCES JUSTIFICATIONS OF EXPOSURE LIMITS BY MANUFACTURERS AND IMPORTERS WILL BE BASED UPON RISK ASSESSMENTS WHICH INCLUDE THE DEVELOPMENT OF EXPERIMENTAL TEST DATA. SUCH JUSTIFICATIONS CAN BE BASED ON EXISTING

TEST DATA WHERE THIS IS APPROPRIATE SCIENTIFICALLY (E.G., IN CASES WHERE VALID STRUCTURE-ACTIVITY CORRELATIONS CAN BE MADE OR WHERE TESTS PREVIOUSLY HAVE BEEN RUN ON THE SAME CHEMICAL BUT THE CHEMICAL IS "NEW" IN THE TSCA SENSE). EPA AGREES ON THE IMPORTANCE OF DEVELOPING MUTUALLY ACCEPTABLE SYSTEMS FOR VALIDATING DATA.

WHERE EXPERIMENTAL TEST DATA ARE SUBMITTED, WE WILL ASK SUBMITTERS TO PROVIDE THE BASIS FOR THE SELECTION OF EFFECTS AND TESTS OF CONCERN. WE WILL PUBLISH PRE-MANUFACTURING GUIDELINES WHICH WILL CONTAIN A REFERENCE SET OF EFFECTS AND TESTS ABOUT WHICH WE ARE PARTICULARLY CONCERNED. IN PERFORMING A RISK ASSESSMENT TO IDENTIFY EXPOSURE LIMITS, WE WOULD ASK SUBMITTERS TO EXPLAIN ANY LIMITED OFFICIAL USE

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DEVIATIONS FROM THE REFERENCE SET. THIS IS QUITE DIFFERENT, HOWEVER, FROM "REQUIRING" THAT ALL OF THESE TESTS BE PERFORMED FOR ALL NEW CHEMICALS. IN ANY EVENT, WHAT WE ARE ASKING APPLIES EQUALLY TO MANUFACTURERS IN THE U.S AND TO IMPORTERS.

(D) CONFIDENTIALITY

SECTION 14(A) OF TSCA REQUIRES EPA TO TREAT CERTAIN INFORMATION AS CONFIDENTIAL. WE DO NOT PLAN TO ALTER OUR POSITION ON CONFIDENTIALITY AS ADOPTED IN THE INVENTORY REGS. THUS WE INTEND IN OUR PROPOSAL THIS FALL TO CONTINUE THE POLICY THAT THE AGENCY WILL PROTECT CONFIDENTIALITY OF CHEMICAL IDENTITY WHERE A VALID CLAIM IS MADE.

3. AT WASHINGTON TALKS, TWO SIDES AGREED TO MEET AGAIN IN AUTUMN. UNDERSTANDING WAS THAT PRECISE TIMING WOULD DEPEND ON PUBLICATION OF PROPOSED EPA PRE-MANUFACTURING REGULATION FOLLOWED BY PERIOD FOR REVIEW OF WRITTEN DOCUMENT BY COMMISSION.

4. EPA APPRECIATES COMMISSION INTEREST IN PLACING THEIR CONCERNS ON RECORD AT DRAFTING STAGE AND BELIEVES THAT PROCEDURE ADOPTED IN DISCUSSIONS WITH COMMISSION CONCERNING PRE-MANUFACTURING REGULATIONS IS ONE OF GREAT OPENNESS WHICH OFFERS MAXIMUM OPPORTUNITY FOR COMMISSION INPUT INTO OUR PLANNING PROCESS. U.S. HOPES COMMISSION WILL PROVIDE SIMILAR OPPORTUNITIES FOR U.S. INPUT IN PLANNING PHASES OF E.C. RULE-MAKING ON PRE-MARKETING NOTIFICATION. CHRISTOPHER

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Message Attributes

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Decaption Date: 01 jan 1960
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Disposition Action: RELEASED
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Disposition Case Number: n/a
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Disposition Date: 20 Mar 2014
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Secure: OPEN
Status: NATIVE
Subject: TOXIC SUBSTANCES
TAGS: SENV, ETRD, EEC
To: BRUSSELS
Type: TE
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